

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department on its own Motion into the)	
Appropriate Pricing, based upon Total Element Long-Run)	
Incremental Costs, for Unbundled Network Elements and)	
Combinations of Unbundled Network Elements, and the)	D.T.E. 01-20
Appropriate Avoided Cost Discount for Verizon New England,)	
Inc. d/b/a Verizon Massachusetts' Resale Services.)	
)	

**HEARING OFFICER'S RULING ON MOTION OF
VERIZON MASSACHUSETTS TO EXTEND
PROCEDURAL SCHEDULE**

August 31, 2001

I. INTRODUCTION

On May 8, 2001, Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon") and AT&T Communications of New England, Inc. ("AT&T") submitted to the Department of Telecommunications and Energy ("Department") their direct cases in Part A of D.T.E. 01-20. According to the Revised Procedural Schedule of July 13, 2001, pre-filed Surrebuttal Testimony was to be filed with the Department on August 21, 2001, and evidentiary hearings were scheduled to commence on August 27, 2001. On August 13, 2001, Verizon filed a Motion to Extend Procedural Schedule ("Motion") in conjunction with its appeal ("Appeal") of the August 8, 2001 Hearing Officer's Ruling on Motions to Compel discovery responses ("August 8 Ruling"). On August 14, 2001, the Hearing Officer stayed the July 13 Revised Procedural Schedule, pending an order on the Appeal.

In the Appeal, Verizon requested that the Department reverse the portions of the August 8 Ruling which denied Verizon's motion to compel discovery responses pertaining to AT&T's network and operational experience and responses involving information AT&T claimed was intellectual property of outside vendors and that AT&T does not have and is not authorized to provide.

In the Motion, Verizon requests that the Department extend the procedural schedule so that the filing date of surrebuttal be set for two weeks after final discovery requests are received, based on the Hearing Officer's August 8 Ruling that some of AT&T's responses be compelled, and pending the outcome of Verizon's Appeal regarding the remaining responses that were not compelled.

On August 31, 2001, the Department issued its Interlocutory Order on Verizon's Appeal of the Hearing Officer's August 8, 2001 Ruling ("Interlocutory Order"), granting Verizon's Appeal and ordering AT&T to produce the subject discovery responses by September 7, 2001.

II. VERIZON MOTION

Verizon requests extension of the procedural schedule pending completion of pre-hearing discovery so that parties have the opportunity to analyze and evaluate all discovery responses before submitting Surrebuttal Testimony (Motion at 1, 2). Verizon states that it served AT&T with three sets of Information Requests on May 17 and 18, 2001, which were designed to obtain information about the HAI 5.2a-MA Model's platform methodologies, input values, and the accuracy of the cost estimates it produces, and the reasonableness of AT&T's model with respect to AT&T's own network experience (id. at 1-2). Verizon asserts it intended to use its analysis of the responses to these requests to prepare its Rebuttal Testimony, but did not get the opportunity to do so because AT&T objected to and failed to respond to many of the requests, and the Hearing Officer's Ruling on Verizon's Motion to Compel was not issued until August 8, after the July 18, 2001 filing of Rebuttal Testimony (id. at 2).

Verizon states that it is not in a position to file Surrebuttal Testimony until it receives all compelled discovery responses – those granted in the August 8 Ruling and any additional responses compelled by the August 31 Interlocutory Order (id.). Therefore, Verizon requests that the Department extend the procedural schedule to permit filing of Surrebuttal Testimony two weeks after final discovery responses are received to allow for resolution of all discovery disputes, review of responses by witnesses and preparation of testimony (id.) In making its request, Verizon states that it does not seek to delay this proceeding for an extended period, but that it seeks the time to review discovery responses in the interest of having complete pre-filed cases before hearings begin, so that the case can then proceed expeditiously (id.)

III. ANALYSIS AND FINDINGS

Pursuant to 220 C.M.R. § 1.06(6)(b), the Hearing Officer is granted broad discretion to address procedural matters that will aid in the orderly disposition of the case. In the present case, modification of the procedural schedule is necessitated by the discovery disputes that led to Verizon's Appeal of the August 8 Ruling and hindered parties' preparation of Rebuttal Testimony. Verizon's request to extend the procedural schedule to allow filing of Surrebuttal two weeks after receipt of compelled discovery responses is reasonable in the interests of administrative efficiency, compilation of complete pre-filed cases and preventing outstanding discovery at the commencement of the evidentiary hearings. Accordingly, the Hearing Officer grants the motion to set a Surrebuttal filing date two weeks after the due date for the compelled discovery responses. The August 31 Interlocutory Order directed that the compelled discovery

responses be filed by September 7, 2001, which sets the filing date for Surrebuttal as September 21, 2001. To correspond with the new filing date for Surrebuttal Testimony, corresponding adjustments are required in the evidentiary hearing and briefing schedule. Attached is a revised Part A procedural schedule.

Marcella Hickey, Hearing Officer

Date: August 31, 2001

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REVISED PROCEDURAL SCHEDULE

Issued August 31, 2001

Part A: Development of TELRIC Rates

September 21, 2001	Pre-filed Surrebuttal Testimony must be filed with the Department and served on all parties by 5:00 p.m., both electronically and hard copy.
October 9 - November 2, 2001	Evidentiary Hearings. Record Request responses are due seven calendar days from the date of the request.
November 30, 2001	Initial Briefs must be filed with the Department and served on all parties by 5:00 p.m., both electronically and hard copy.
December 14, 2001	Reply Briefs must be filed with the Department and served on all parties by 5:00 p.m., both electronically and hard copy.